

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Greg Finch	Team: Squad #14	CCRB Case #: 201607550	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/01/2016 9:00 PM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 3/1/2018	EO SOL 3/1/2018	
Date/Time CV Reported Fri, 09/02/2016 8:25 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/02/2016 8:25 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Henry Daverin	03631	945645	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DTS David Grieco	3078	940216	075 PCT
2. POM Christophe Walsh	23571	951413	075 PCT
3. POM Matthew Solomito	25805	951284	075 PCT
4. DTS Robert Mayer	5320	940441	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Henry Daverin	Abuse: Sergeant Henry Daverin threatened to damage § 87(2)(b)'s property.	§ 87(2)(b)
B.SGT Henry Daverin	Abuse: Sergeant Henry Daverin entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On September 2, 2016, § 87(2)(b) filed a complaint via telephone with CCRB.

On September 1, 2016, at approximately 9:00 p.m. § 87(2)(b) was in her apartment at § 87(2)(b) in Brooklyn with her § 87(2)(b) old daughter and her mother § 87(2)(b). § 87(2)(b) heard a series of loud knocks on her door. Sergeant Henry Daverin of the 75th Precinct spoke with § 87(2)(b) through her apartment door. § 87(2)(b) barricaded her front door and began recording on her phone. Sgt. Daverin allegedly threatened to break § 87(2)(b)'s door (**Allegation A**). § 87(2)(b) unbarricaded and opened her apartment door. Sgt. Daverin and other officers from the 75th Precinct entered and searched § 87(2)(b)'s apartment (**Allegation B**). § 87(4-b), § 87(2)(g)

Video footage of the incident was provided by § 87(2)(b) (BR 01; BR 02; BR 03).

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined the option of mediation.
- As of September 7, 2016, there has been no Notice of Claim filed with the NYC Comptroller's office regarding this incident (BR 04).
- § 87(2)(b) has no prior arrests in BADS, and therefore without a NYSID number the undersigned investigator could not perform any searches for previous convictions in the Office of Court Administration records (BR 05).

Civilian and Officer CCRB Histories

- § 87(2)(b) does not have any prior CCRB complaints (BR 06).
- Sgt. Daverin has been a member of the NYPD for 8 years and has 19 prior complaints with 46 allegations (see officer history). § 87(2)(g)
 - In case 201602623, the Board substantiated vehicle search, frisk and refusal to provide name and shield number allegations and recommended Command Discipline A. CTS did not contain information for the NYPD disposition.

Potential Issues

- § 87(2)(b) was unwilling to provide a statement to the investigation (BR 07).

Findings and Recommendations

Allegation A – Abuse of Authority: Sergeant Henry Daverin threatened to damage § 87(2)(b)'s property.

Allegation B – Abuse of Authority: Sergeant Henry Daverin entered and searched § 87(2)(b) in Brooklyn.

It is undisputed that Sgt. Daverin spoke to § 87(2)(b) through her locked apartment door.

According to § 87(2)(b) Sgt. Daverin knocked on her apartment door and said, “Ma’am, please open your door” (BR 08). § 87(2)(b) said there was no way she was opening her door because she did not call the police, they did not have a search warrant, and they did not have probable cause to enter her apartment. Before entering, Sgt. Daverin did not tell § 87(2)(b) why he wished to enter her apartment. § 87(2)(b) sat down and the police kept “banging” and “knocking aggressively.” Sgt. Daverin started making threats like “We can smell the weed you’re smoking in your apartment and we’re going to come in for that.” § 87(2)(b) told Sgt. Daverin no

one in her home was smoking weed, and barricaded her door with a table. § 87(2)(b) briefly cracked the door open three inches before closing it again. Sgt. Daverin threatened to break down the door twice and banged on the door hard enough for it to shake. § 87(2)(b) again cracked open the door open three inches, and Sgt. Daverin said that by § 87(2)(b) opening the door she was inviting them to come in. § 87(2)(b) said no and let go of the door, and Sgt. Daverin and three officers entered § 87(2)(b)'s apartment. The officers came through the doorway 'sideways' to clear the crack in the door. § 87(2)(b) told them they were not supposed to be there and she did not at any point invite the officers in. When asked if she ever specified that one or two officers could enter her apartment, § 87(2)(b) said, "No," but later clarified that Sgt. Daverin told her only two officers would enter her apartment before § 87(2)(b) unlocked her door (BR 13).

It is undisputed that Sgt. Daverin entered and searched § 87(2)(b)'s apartment. Sgt. Daverin and § 87(2)(b)'s accounts corroborate that Sgt. Daverin entered each room in § 87(2)(b)'s apartment and did not search beyond areas where a person could hide.

Video footage provided by § 87(2)(b) corroborates that she barricaded the door before officers entered her apartment (BR 01; BR 02; BR 03).



Snaglt 1.MOV



Snaglt 2.MOV



Snaglt 3.MOV

The footage shows § 87(2)(b) and § 87(2)(b) arguing with an officer through the locked door about whether they smoke marijuana, and an officer responds, "We're not going away" (BR 13). The footage then captures § 87(2)(b) unlocking her door, opening the door and stepping backwards to allow officers to enter (BR 14). Next, Detective Grieco enters § 87(2)(b)'s apartment and says, "Thank you very much, you can record all you want miss, but you're opening the door and you're inviting us in so we can make sure, correct?" § 87(2)(b) responds, "You said two." Sgt. Daverin then says to § 87(2)(b) "You're not gonna close the door though, nobody else is coming in." Sgt. Daverin then explains to § 87(2)(b) that a witness told officers that a perpetrator ran into § 87(2)(b)'s apartment, and Sgt. Daverin and § 87(2)(b) get into a prolonged argument (BR 15) before officers exit her apartment.

According to Sgt. Daverin, he received a radio run of an armed robbery involving two individuals on Pitkin Avenue and Van Siclen in Brooklyn (BR 09). Sgt. Daverin said that there was a "very good description" of the two male blacks who committed the robbery with a detailed clothing description. The sector unit picked up the robbery victim and began to conduct a canvass. Sgt. Daverin, PO Solomito and PO Walsh went to the same area and began to canvass for individuals who fit the description. Shortly thereafter, the sector asked for an additional unit in front of § 87(2)(b) to help canvass. Sgt. Daverin observed a group of individuals sitting in front of § 87(2)(b) and asked if they'd seen the described individuals in the area. After Sgt. Daverin provided descriptions of the two perpetrators, the group said they'd seen the two described individuals flee into § 87(2)(b). Sgt. Daverin also learned from the main sector unit that the victim knew the perpetrator and identified the § 87(2)(b) as the building the perpetrator lived in but was unable to provide the specific apartment.

A few minutes after receiving the initial radio run, Sgt. Daverin knocked on the front door of § 87(2)(b) and a female tenant in the first floor apartment provided officers entry into the building and first floor apartment, where officers searched to negative results. Sgt. Daverin and officers walked to the second floor, knocked on the door several times and said, "Police department," to no answer. Sgt. Daverin and officers walked to the final apartment on the

third floor, the tenant allowed entry and officers conducted a search to negative results. Sgt. Daverin and officers returned to the second floor, knocked on the door repeatedly and Sgt. Daverin announced himself again as police. Sgt. Daverin heard an individual moving items in front of the door for a minute, which increased Sgt. Daverin's suspicions that the tenant was barricading the apartment door because the two perpetrators were inside. A female inside said, "Hello." The investigation identified this woman as § 87(2)(b). Sgt. Daverin said there was a robbery with a firearm and that police had reason to believe the perpetrators were in the building and for safety reasons they wanted to check if they were in the apartment. § 87(2)(b) said, "I don't believe you guys are cops" and called 911. 911 communicated with officers, and officers relayed to let § 87(2)(b) know that they were in fact police officers. Sgt. Daverin could not recall if § 87(2)(b) opened the door once before opening it the time officers entered. At no point did Sgt. Daverin threaten to break § 87(2)(b)'s door, and could not recall if any other officer threatened to break § 87(2)(b)'s door.

Five to ten minutes after Sgt. Daverin first said "Police department" through the locked door, § 87(2)(b) told Sgt. Daverin through the locked door that she would allow one officer into her residence, and Sgt. Daverin responded that would be a safety issue. § 87(2)(b) then told Sgt. Daverin that she would allow two officers to enter her residence. Sgt. Daverin agreed to allow only two officers to enter § 87(2)(b)'s apartment. § 87(2)(b) opened the door halfway, and Sgt. Daverin and another officer entered the apartment with § 87(2)(b)'s permission. Later in the interview, Sgt. Daverin clarified that he observed § 87(2)(b) recording and said, "You're giving us permission to enter this location" to which § 87(2)(b) said, "Yes." § 87(2)(b) began badgering the officers, saying she did not want to allow officers to enter because they "like shooting black people and she doesn't want her child to get shot." Sgt. Daverin conducted a search through the rooms of the apartment, checking in plainview and under the beds, to negative results and then left the building. At no point did § 87(2)(b) claim to have not given officers permission to enter her residence or tell officers to leave. Sgt. Daverin did not tell § 87(2)(b) that he smelled marijuana in her apartment, and did not recall if any other officer told § 87(2)(b) that they smelled marijuana in her apartment.

It has long been determined that officers are allowed to conduct a warrantless entry into a premise, provided there is probable cause, only if exigent circumstances exist, or consent is given. The factors for exigent circumstances include the peacefulness of the entry, whether the suspected offense was a violent crime, whether officers have probable cause, the likelihood that the suspect is armed, present at the location or is able to escape. *People v. McBride*, 14 N.Y.3d 440 (2010) (BR 10).

§ 87(2)(g)

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[illegible]

Squad:

Date _____

Date _____

Date _____